App. F. IX-4

1930. 31 **File No.** 64-30

Previous References

Dol 242-29. 1-4+6-7
" 242-29-5
Dol Dep 886-29

Serial Nos. 1—9

Later References

Law Dep 25-32
" 3-32-31
Pol 73-37-1-3, 5-7

(94)

General and Revenue Secretariat.

Serial Nos. Nine.

Part B for April 1932

SUBJECT

C. S. 196/30.31 on the file of the 1st Munsiff Bhone v. Nimha Jetty vs District Magistrate, Bhone & Kanya Jetty

G. R. S. APP F. III—1]

GENERAL AND REVENUE SECRETARIAT.

(Law)

NOTES.

File No. 64-30

FILE HEADING.

O.S. 196./30-31 on the file of the I Munsiff B'lore

(Nimbajetty vs Dist. Magte

FROM The District Magte B'lore

No. J 1-2054/30 Dated 4th Nov 1930 Received 6-11-30

Mombasella claims possession of Doddagerai in Gundamanaman [illegible] D.C. States that clear instructions were sought for before but the entire records were returned without any instructions

The Dist. Magte Bangalore

Requesting to instruct the PPr. B'lore to appear for in in O.S. 196/30-31, and Calling for the records Connected in the Case. 4

Resmbd

Previous records Connected with Case are put up.

The facts of the Case appear to be as follows 5

5) A petition having been presented to the District Magte. Bangalore from one Abbajetty, on 14. 12. 1925, an order was passed on 20th Dec 1925 upon the recommendations of the Dist. Supt of Police, appointing Mr. H. Rangajetty (the present Deft in the Case) to manage the affairs of the Garadi, and to maintain accounts of receipts and expenditure. On the appeal of Mr. Nimbajetty, the alleged owner and the present Ltd the order was found to be illegal and he was advised to Cancel the order originally passed. But the property that was dispossessed in pursuance of the original order was not restored to Nimbajetty. Dist. Magte in his endorsement to Mr. Rangajetty states that previous order of this office is Cancelled as it is Considered that the question regarding the management of the property is one for adjudication by a civil Court

to effect a settlement of the dispute between the parties if practicable. Dist. Mag^tes has stated in his report that the parties are not willing to have the dispute settled amicably.

Mr. Rangajelly the present deft. holds the property as a trespasser, and he is prepared to hand it over to any person declared by a competent authority as entitled to it. (Vide his petition dated 9th Dec 1929)

Under these circumstances the present suit brought by Nimbajelly in whose favour it may be inferred that Govt were pleased to order the properties is hardly worthwhile to be prolonged any longer. The records called for from the D.C. may also be awaited.

TSD
18/4

6) Where is the copy of the plaint? If it has been retd to the D.C. please let as also the date to which the case is posted.

BNG 18/4

Letter no. 2054/29-30 dated 18th nov 1930 from the D.C. Bangalore forwarding the entire records relating to Doddagarad case and intimating that the Pltr has been instructed appear, summons being returned unserved

Facts of the Case have already been mentioned in para 5 supra. Copy of the plaint is missing in the records sent. The same may be awaited

ISD
24/11

Please return D.M. to send Copy of plaint and to intimate the date of Hg

DDM 24/11

Dft is put up accordingly

ISD
25/11

Issue

DDM 25/11

To

The D.C. B'lore

No. P. 2979 of 26.11.30 requesting to send a Copy of the plaint, and to intimate the date of Hg.

Letter no. JD. 2054/29-30 dated 28th nov 1930 from the Dy. Regr, Bangalore forwarding a Copy of the plaint in Doddagadi Case and intimating that the Case stands adjourned to 8.12.30 for filing W.St.

Instructions have to be given

to be given to the PPr to prepare and send for approval a dft. W.St. The entire records of the case have been received. Facts of the case have already been narrated in para 5 & 6 supra.

For perusal

TSD
2/12

11) This suit relates to the management of Doddagaradi in Gudamayyanapet, Bangalore city. The District magistrate passed an order on 20/12/1926 appointing the 1st deft Rangapetty as manager of the Garad & got him possn of the premises. On appeal, ~~Govt~~ it was found that the order was one without jurisdiction & the D.M cancelled the same on 15th march 1928, but he could not ~~put the persons dispossessed in virtue~~ restore status quo, since the question of possession was one to be settled by the Civil Courts. As the D.C could not right the wrong done, Govt decided to leave the threatened suit against the D.C to take its course. (Vide Secy's note, dated 6/2/30 in Pol 242-29, 1-4). The suit is now filed & the Dt mag who is the 2nd defendant in the suit wants the PPr to defend him

File No. of 193 | General and Revenue Secretariat

apparently at Govt Cost

The plaint prays for a decree directing the 2nd deft as well as the 1st to put plaintiff in possn & costs against 2nd deft also. It is not a suit for damages for wrongful dispossession by the 2nd deft; for in that case the suit cannot be maintainable against the successor in office (18 Mys CCR 92, Mallappa vs Dt Judge) ~~Dt~~ The Dt Magte is not admittedly in possn & therefore no decree as prayed for can be granted against him. The Dt magte therefore is not at all a necessary party to the suit & cannot therefore be liable for costs. If costs are asked in lieu of compensation, then again the cause of action is tort & the ~~the~~ ruling in 18 MCCR 92 applies. Reg I of 1912 (Judl officers Profn Act) may also perhaps be pleaded in defence.

(2) Under the Circs the defence of the suit may perhaps be sanctioned & the PPr asked to prepare a W.S.

Date of Hg 8/12

Legal Rr

BMG 2/12

(4) There seems to be no other alternative.

2nd Member

P. M. 3/12

[illegible] 4/12 [illegible] write to R.P.M. at once

P. M. 4/12

OFFICE OF THE SECOND MEMBER OF COUNCIL
4 DEC. 1930
No. 4836

To

The PPr. B'lore

No. P. 4009 dated 9th Jan 1931 Calling for a progress report made in the Case on 5th Jan 1931

Letter no 287/30-31 dated 11-1-31 from the PPr. Bangalore informing that the Case is posted to 15-1-31 for reply to the W.S. filed on 5-1-31.

for perusal

The copy of the reply is to be obtained from PPr.

13/1

File No.

Letter no 324/30.31 dated 26th Jany 1931 from the PPr Bangalore enclosing a copy of the reply filed by the ptf and informing that the case is posted to 3. 2. 31 for issues.

a copy of the issues framed in the case may be awaited.

for perusal

TSD 28/1

Please ~~call for~~ request PPr to send a copy of issues as soon as they framed & ~~to~~ invite his refce to the instructions issued in para 4 of Ten office letter P 3819 dated 2-1-31

AM 29/1

Dft Sub^d

TSD 29/1

Issue AM 29.1

To

The PPr. Bangalore

No. P. 4568 dated 30.1.31 requesting send a copy of the issues framed in the case

Letter no 413 dated 19.3.31 from the PPr. Bangalore stating that the Court has not framed issues yet.

for perusal

TSD 24/3

Please enquire the date of hg.

AM 24/3

Dft Put up.

TSD 25/3

Issue AM 25/3

Issue.

Letter no 635/30-31 dated 30 March 1931 from the PPr. Bangalore forwarding a copy of the issues framed in the Case.

The Case is posted for Evidence to 9.9.31 for perusal

ISO 1/4

22) In this Office letter of 2nd Jan 1931, specific instructions have been sent to the PPr, Blore, to have the preliminary points of law arising in the case argued out before the case is posted for evidence. He now reports that it is posted for evidence to 9th Sept 1931 + no mention is made as to what action he took according to the instructions given above + to which the PP's attention was again drawn in the letter of 20th Jan 1931.

Submitted for perusal + orders

Legal Asst

1/4

5570

13

File No. of 193 General and R Secretari

To

PPr B'lore

No P. 6622 dated 13.4.31 requesting to file an application now praying the Court to post the Case for arguments ~~[illegible]~~ before the next date of Hg; and to report the action taken in the matter immediately

Subd Nomfn reaction taken has been received. A draft reminder is put up for appl.

G 25/5

Issue
MLS 75

'613 of 26/5/31
from the P. Pr Blue.
508/30-31 of 28/5/31

States that an application has been filed in court for arguments on the points & that no orders have been passed & that the same will be intimated later on.

Subd. Further report may be awaited

G 2/6.

Letter no 520/30-31 dated 13th June 1931 from the PPr. Bangalore informing that the orders have been passed on the application posting the Case ~~for assessment~~ to 2.7.31 for notice to ptf and the 1st Deft.

Subd for perusal

TSD 17/6

26) Refce paras 22 and 23 supra The PPr could have filed the appn in Court after giving due notice to the plaintiffs as well as to the 1st defendants Counsel. This would have avoided another adjournment

For perusal

L.R.)

17.6

27) yes. This may be pointed out

18/6/31

Dft, please

18/6

Dft Subd accordingly for app

TSD 19/6

Issue

19.6

623

File N of 193 | General and Reven Secretariat

Letter no 51/31-32 dated 2.8.31 from the Pbr. Bangalore, informing that the Case is posted to 10th inst. for arguments re: preliminary points of law.

Copy of the petition on behalf of the 2nd deft. praying the Court to post the Case for arguments on preliminary pts of law, and a copy of the objection statement from the plaintiff have been received.

Further report is to be awaited.

Subd. for perusal

TSD 5/8

29) Refce paras 11 to 13 for facts of the case -

Subd for perusal.

Chief Secy) MP 5/8

30) MA 7/8/31

Sus B file 15/8

General and Revenue Secretariat | File No.

Serial No.

Letter no. 91/31-32 dated 28-8-31 from the PPr. B'lore intimating that arguments were heard on 20-8-31 and orders reserved for 1.9.31.

Subd. for perusal.

TSD 31/8

Ans till 8/9

BMC 2/9

Letter No 114/31-32 dated 12.9.31 from the PPr. B'lore intimating that the Court has passed orders rejecting the application, and the Case is posted to 1.10.31 for arguments.

Dft Calling for a copy of the order is put up for appl.

TSD 21/9

Issue

BMC 21/9

Issued No. P. 1727 dt. 23.9.31.

~~Posted for arguments~~

Letter no. 158/31-32 dated 10.10.31 from the PPr. B'lore intimating that the Case is posted for arguments of the Second defn to 2.11.31, and he has applied for a copy of the order

31) The PPr. was asked to State in this office letter dated 23rd Sept 1931 whether the question of the maintainability of the Suit against the D. M. Bangalore in the name of his office, was raised & argued this question remains unanswered. Copy of the order may be awaited.

WD 02553—50,000—GPB—8-7 30

For perusal

TSD 14/10.

Yes. Sus till 2/11

BMC 14/10

Letter dated 3rd nov 1931 from the Pr. B'lore informing that O.S. 124/30-31 is adjourned to 24.11.31.

Dft to the Pr Calling for the information required in this office letter dated 23.9.31 put up.

ISD 5/4

Where is the copy of the order?

RAP 6/4

Letter no 287/31-32 dated 4th nov 1931 from the Pr. B'lore enclosing a certified copy of the order passed in the case as Sr. no. 1.

The question of maintainability of the Suit against the dft (Dist. Magte) has been argued, on the application filed on behalf of the 2nd Dft. It is ordered that issues 4 to 5 cannot be decided without recording evidence. Hence the app[n] is rejected.

Submit for perusal of the order.

ISD 7/4

3) There has been some confusion now in this case by the then Pr (Mr Vijayadeva). According to our letters of 2nd January 1931 and 22nd Sept 1931, the preliminary points to be argued were 1) whether the Suit as framed against the 2nd deft is maintainable & 2) whether the Dist magte as such could be a Defendant.

34) The copy of the order now sent shows that Mr. Vijaya Deva ~~heard~~ moved

General and Revenue Secretariat | File No.

Serial No.

the Court to hear preliminary argts on issues 4 & 5 relating to ~~[illegible]~~ the ~~[illegible]~~ maintainability of the Suit under Sec 92 C.P. Code

35 If appd, the mistake made will be pointed out to the present Mpr & he be asked to take necessary action to rectify the same –

Gen Secy) MMP 7/11

36 Yes. Resubmit to draft

HCa 10/11

Dft MMP 11/11

Dft subd accordingly

TSD 11/11

Gen Secy) MMP 11/11

I. Member) HCa 12/11

GENERAL SECRETARY. 10 NOV. 1931 No. 3189

GENERAL SECRETARY. 11 NOV. 1931 No. 3232

OFFICE OF THE ST MEMBER OF COUNCIL 13 NOV. 1931 No. 3700

To,

The PPr. B'lore.

No. P. 2702 dated 14.11.31 pointing out that Mr. Vijayadeva seems to have moved the Court to hear preliminary arguments on issue 4 & 5 in the Case relating to the maintainability of the Suit under sec 92. C.P.C. and requesting to take necessary action to rectify the mistake

P. Pr report of 17-11-31.

Posted to 24th instant.

P. Pr report of 29/11. — " — 10th Dec for [illegible]

— " — 11/12. — " — 13.1.32 for want

[illegible]
17/12

2) The Suit as brought against the office of the Dist. Magte. is not maintainable.

Subd. for perusal.

TSD
30/3

Refce paras 11 to 13 and 33 to 37 supra - The Court has upheld our contention that the Dt Magistrate as such cannot be sued

Submitted for perusal.

Gen Secy)

II Member

30/3/52

5/4

7.4

6/4

8/4

OFFICE OF THE DISTRICT MAGISTRATE,
BANGALORE DISTRICT.

Dated, Bangalore, the 4th November *193* 0.

FROM

Moin-Ul-Vizarath A.K. Syed Taj Peeran, Esq., B.A.,
District Magistrate,
Bangalore District.

To

P. Mahadevayya, Esq., B.A.,B.L.,
Secretary,
to the Government of Mysore.
Law Department, Bangalore.

SIR,

Subject:—

I have the honour to enclose herein summons in duplicate in O.S. No.196/30-31 received with No 719 dated 28-10-1930 of the 1st Munsiff, Bangalore and to state that this is a case relating to the possession of Doddagaradi in Gudumayyanapet, Bangalore City. Nimba Jetty who was urging for the possession of the said Garadi is the plaintiff in the case. He has cited (1) Ranga Jetty as the 1st defendant and (2) the District Magistrate as the 2nd defendant The case is posted to 6-11-1930. As the summons has not been received through Government, the same is submitted herewith. Clear instructions of Government were already sought for in my letter No. J1.2054/29-30 dated 19/20-12-1929. The entire records were returned without any instructions with your letter No. P.4226/Records - Police dated 12-2-1930. Early instructions of Government are solicited re. the conduct of the case and appointment of the Public Prosecutor to defend the District Magistrate.

In the Court of the at Bangalore.

Original Suit No.196 of 30-31

Nimba Jetty aged about 75 years, son of Govinda Jetty, Jetty by caste residing in Door No.10 Kilary Road, Bangalore by Agent. Plaintiff

1. Ranga Jetty, aged about 34 years son of Appa Jetty, Jetty by caste, clerk Income Tax Office, residing in Mukadasettigalli, No. 15 Balepet Cross Bangalore City

2. The District Magistrate at Bangalore. Defendents.

Under Order VII Rule 1 of the C.P.Code.

The plaintiff begs to state as follows:-

1. That the plaintiff declare that the address given above is the place for service of summons, notices,etc., upon him.

2. That the plaintiffs ancestors were the Managers of Talimkhana known as Dodgarudi or Sri Nimbaji Devi temple with its assets situated in Rangaswamy Temple street Gudamayanpet, Bangalore City from time immemorial and the -- plaintiff himself assumed the management by virtue of a decree of the Munsiff of Bangalore in O.S.No. 588 of 1888 and for managing the properties belonging to it till 7-1-192'

3. That the 2nd defendent at the instigation and misrepresentation of the first defendent, forcibly and without any sufficient cause took possession of it and handed over the same to the 1st defendent who have no manner of right or title in or over to the said management. The plaintiff went up in appeal to the Government on the orders passed by the 2nd defendent and of its disposition in appeal petition dated

10-8-1927 and the Government were pleased to direct the District Magistrate to put the plaintiff in possession to maintain status quo. The District Magistrate however cancelled his order but did not put the plaintiff in possession of the property in spite of repeated demands Hence this suit

4. That the 1st defendent has misused the institution for his private ends and has misappropriated the proceeds thereof and has also refused to pay up the funds in his hands and put the plaintiff in legal possession thereof.

5. That the 2nd defendent who was responsible for the plaintiff 's dispossession of the Doddagarudi above named and has failed to put in peaceful possession of it, in spite of repeated requests and demands is made a party defendent to this suit.

6. That notices under section 80 of the C.P. Code were issued to the Chief Secretary to the Government and the District Magistrate Bangalore (2nd defendent) as required by law. Even the defendent has been notified by several Registered notices. The postal acknowledgments are herewith filed.

7. The 1st defendant has refused to put the plaintiff in possession of the property and its income and the 2nd defendant or the Government least have not cared to restore actual possession to him. Hence this suit.

8. That the 1st defendant who is in wrongful possession and wrongful management of it is liable to render proper accounts of all receipts and hand them over to the plaintiff together with the management. Also he is personally liable for any damages or mismanagement of the institution.

9. That the cause of action arose on 7-1-1927 in Bangalore City within the jurisdiction of this Hon'ble Court.

10. That the value of the subject matter of this suit for purpose of court fee and jurisdiction is not calculable as per section of the Stamp Regulation, and a Court fee stamp of is herewith produced.

Wherefore, the plaintiff prays that a judgment and decree may be passed against the defendants as -

(a) Declaring that the 1st defendant has no right to the management of Doddagardy and its assets and that plaintiff alone is entitled to its management.

(b) Directing that both the defendants should put the plaintiff in possession of the Doddagardy with its assets.

(c) Directing the 1st defendant to account for the receipts during the period of his possession and to hand over the assets to the plaintiff.

(d) Directing that he is liable to the waste misappropriation or damages caused to the institution, if any found at the time he gives possession and accounts.

(e) That both the defendants should pay the costs of this suit.

(f) Together with such other and further relief as this Hon'ble Court may deem fit to grant in the disposal of this suit.

The District Magistrate,

B a n g a l o r e.

With reference to your letter No.J1-2054/28-29 dated 4th November 1930 regarding O.S.No. 196/30-31 on the file of the I Munsiff Bangalore (Nimbajetty Vs Rangajetty 2.District Magistrate Bangalore) I am directed to request you to instruct the Public Prosecutor Bangalore to appear for you in the case and take an adjournment under order 27 rule 7 of the Civil Procedure Code so as to enable you to receive orders of Government regarding the defence in the case. Records connected therewith may kindly be sent at an early date

The summons in duplicate sent with your letter are returned herewith for due service and return to the Court.

The date to which the case is adjourned may also be intimated.

I have the honor to be,

Sir,

Your most obedient servant,

For Legal Remembrancer and
Secy. to Govt. Law Deptt.

The District Magistrate. Ban

Sir,

With reference to your letter no J1-2054/28-29 da 4th November 1930 re: O.S. no 196/30-31 on the file of the I Munsiff Bangalore (Nimbajetty Rangajetty 2. Dist. Magte B'lore) I am directed to request you to instruct the Public Prosecutor Bangalore to ~~take~~ appe for ~~the 2nd defendant~~ You in the case and take an adjournment under orde 27 rule 7 of the Civil Procedure

So as to enable you
Code ~~enabling~~ ~~him~~ to
receive orders of Govt.
regarding the defence in the
Case Records Connected therewith
may kindly be sent at an
ear' date

The Summons in
duplicate ~~together with a~~ sent with your letter
~~Copy of the plaint~~ are returned
herewith for due service
~~[illegible]~~ and return to the Court.
The date to which the case is adjourned
may also be intimated -

I have etc

Law secy

To

The District Magte Bangalore

In Continuation of this office letter no. P. 269.2 dated 12th Nov 1930 re: O.S no. 196/30-31 on the file of the I Munsiff Bangalore (Nanjajelly vs Rangajelly & Dist. Magte BHore) I am directed to request that a Copy of the plaint (may kindly be returned sent with the letter reference and the date to which the case is posted for hearing ~~about~~

The District Magistrate,
B a n g a l o r e.

In continuation of this office letter No.P.2692 dated 12th November 1930 regarding O.S.No. 196/30-31 on the file of the Ist Munsiff Bangalore (Nimba Jetty Vs Ranga Jetty and District Magistrate Bangalore) I am directed to request that the copy of the plaint sent with the letter may kindly be returned for reference and the date to which the case is posted for hearing intimated early.

I have the honor to be,
Sir,
Your most obedient servant,

For Legal Remembrancer and
Secretary to Govt.Law Deptt.

To

The Deputy Comm^r Bl^re

Sir,

In acknowledging the receipt of the entire records relating to the possession of Doddagavudi in Gundammayan per Bangalore city forwarded with your letter no J.1. 2054/29. dated 18th nov 1930. I am directed to invite reference to this office letter no. P. 2077 dated 19.11.30. and to request that the Copy of the plaint called for may kindly be returned for reference

The Deputy Commissioner,
Bangalore.

In acknowledging the receipt of the entire records relating to the possession of Doddagarudi in Gudamayanpet, Bangalore City forwarded with your letter No.J.1-2054/29-30 dated 18th November 1930, I am directed to invite reference to this office letter No.P. 2877 dated 19th November 1930 and to request that the copy of the plaint called for may kindly be returned for reference and the date to which the case is posted for hearing -- intimated early.

I have the honor to be,
Sir,
Your most obedient servant,

For Legal Remembrancer and
Secretary to Government
Law Department.

P. Mahadevayya, Esq., B.A., B.L.,
Law *Secretary*,
to the Government of Mysore. BANGALORE.

SIR,

Subject :—

Adverting to your letter No.P.2692/Law.64-30-2 dated the 12th instant, I have the honour to forward herewith the entire records relating to the possession of Doddagarudi in Gudumayyanpet, Bangalore City The Public Prosecutor has been requested to appear for the District Magistrate and take an adjournment. The summons has been returned after due service.

I have the honour to be,
Sir,
Your most obedient servant,

District Magistrate
Bangalore District.

P. Mahadevayya, Esq., B.A., B.L.,
Law *Secretary,*
to the Government of Mysore. BANGALORE.

Subject :—

In continuation of my letter No.J.1.2054/29-30 dated 20-11-30 submitting records relating to the possession of Doddagaradi in Gudumayyanapet, Bangalore City, I have the honour to forward herewith the copy of the plaint and to state that the Public Prosecutor, Bangalore Division reports that the case is posted to 8-12-1930 for filing written statement in the court.

I have the honour to be,
Sir,
Your most obedient servant,

For District Magistrate,
Bangalore District.

To

The Public Prosecutor
Bangalore

Sir,

I am directed to request you to appear for the District magistrate, Bangalore who is the 2nd defendant in O.S. 196 of 30-31 on the file of the first Munsiff of Bangalore, fixed for hearing to 8-12-30.

A draft written statement may kindly be prepared under instructions from the District Magistrate Bangalore

and sent to this office for approval without delay.

A copy of the plaint and the records sent with the D. M's letter No 21-2054/29-30 dated 18th Nov 1930, are herewith sent for your reference -

I have ck

[illegible]

For L.R. 8/12

P-31928 4/12

Copy to the Dist. Mag^ce B'lore with Compliments for information.

Re OS. No 196/30-31 on the file of the I Munsiff, Bangalore
Nemra Jetty vs. I Kanga Jetty District Magistrate, Bangalore

I have the honour to send herewith the draft written statement in the above prepared in consultation with the District Magistrate, Bangalore for your approval and return. The case is posted to 5/1/1931. for filing written statement in Court. I request that the approved statement may be sent to me atleast two days before the date of hearing, to enable me to get the signature of the District Magistrate. The entire records are sent herewith.

I have the honour to be

The fact of the case are as follows

The getty Community through its representatives filed a suit in the Munsiffs court Bangalore and a compromise decree was passed to the effect that the property in dispute belongs to the Community and that on behalf of the Community the plaintiff became the trustee manager of the property in 1888. In 1925 one of the getty filed a complaint before the District Magistrate (not as Deputy Commissioner) that the properties were mismanaged and that an educated man may be appointed as manager of the properties The then District Magistrate caused enquires to be made through the police as regards the allegations made in the complaint and as the result of the enquires he was pleased to order

the Government with an appeal. The Government was pleased to observe that this is a matter for adjudication by civil courts. The District Magistrate while cancelling the order appointing the first defendant as manager could not give possession to the plaintiff Hence this suit

The point that arises for consideration is. What authority had the District Magistrate

From

The Chief Secretary to Government of His Highness
the Maharaja of Mysore. xxxxxxxxxx

To

The Public Prosecutor,
B a n g a l o r e.

I am directed to return herewith duly approved the draft written statement to be filed on 5th January 1931 in O.S.No. 196/30-31 on the file of the First Munsiff Bangalore (Nimbajetty Vs. 1. Rangajetty 2. District Magistrate) sent with your letter No 271/30-31 dated 26th December 1930.

I am to observe that the plaint prays for a decree directing the 2nd defendant as well as the 1st to put plaintiff in possession and costs against the 2nd defendent also. It is not a suit, for damages for wrongful dispossession by the 2nd defendent, for in that case the suit cannot be maintainable against the successor in office (18 Mys.CCR 92)

The District Magistrate is admittedly not in possession and therefore no decree as prayed for can be granted against him. He is not a necessary party to the suit as brought and cannot therefore be liable for costs. If costs are claimed as compensation, then again the cause of action is ~~tort~~ tort and the ruling in 18 Mys C.C.R. 92 applies.

Para 1 of your draft statement covers the grounds mentioned above and I am to request you to get a decision on these points of law under order 15 rule 3 of the Civil Procedure Code before the case is posted for evidence. The progress made in the case on each day of hearing may kindly be

The P.Pr. Bangalore

Sir,

I am directed to return herewith duly approved the dft w. statement to be filed on 5.1.31 in O.S. No 196/30-31 on the file of the I Munsiff Bangalore (Nimbajetty vs 1. Ranjajetty 2. Dist. M.) sent with your letter No 271/30 dated 2 Dec 1930.

I am to observe that the plaint prays ~~I have ere~~ ~~FSD~~ for a decree ~~for L.M.~~ directing the 2nd defendant as well

as the 1st to put plaintiff in possession & costs against the 2nd deft also. It is not a suit for damages for wrongful dispossession by the 2nd deft, for in that case the suit cannot be maintainable against the Sucessor in office (18 Mys CCR 92).

The Dist mgte is admittedly not in possn & therefore no decree as prayed for can be granted against him. He is not a necessary party to the suit as brought & cannot therefore be liable for costs. If costs are claimed as compensation, then again the cause of action is lost & the ruling in 18 Mys C.C.R 92 applies.

Para 1 of ~~the~~ your draft statement covers the grounds mentioned above & I am to request you to get a decision on ~~of~~ these points of law under order 15 rule 3 of the C.P. code before ~~the~~ the case is posted for evidence. The progress made in the case on each day of hearing may kindly be reported ~~in~~ without delay for information of govt.

I am
~~AM~~ Jo

To

The Legal Remembrancer
and Secretary to Government
Law Department

Dated 11-1-1931

Despatched 11-1-1931

Received

General No. 287/30-31

Sir

OS 19.6/30-31 on the file of the I. Munsiff. C Nimbajetty vs. 1 Ranga Jetty, 2 District Magistrate Bangalore

with reference to your letter No. P 400 g/Law of the 9th instant I have the honour to inform you that the above case is posted to 15-1-1931 for reply to the written statement filed by me on 5/1/1931

I have the honour to be,
Sir,
your most obedient Servant,

B A V Deva
public prosecutor,
Bangalore

To

The PRr. Bangalore

Sir,

With reference to your letter no 287/30-31 dated 11th Jan & 1931 re. O.S. 196/30-31 on the file of 1st Munsiff (Nambajetty vs Rangajetty Dft Mgr) I am directed to request you to send a Statement Copy of the reply filed by in the case the plaintiff. for information of the Govt at an early

The Public Prosecutor,

Bangalore Division.

With reference to your letter No.287/30-31 dated 11th January 1931 re. O.S.196/30-31 on the file of First Munsiff (Nimbajetty Vs. Rangajetty & District Magistrate) I am directed to request you to send a copy of the reply statement filed by the plaintiff in the case for information of Government at an early date. The file of papers received with your letter No.271/30-31 dated 26th December 1930 is herewith returned.

I have the honour to be,
Sir,
Your most obedient servant,

For Chief Secretary to Govt.,

TSD

From

The public prosecutor
Bangalore

To

The Legal Remembrancer and
Secretary to Government
Law Department,
Bangalore

Sir,

Re: OS 196/30-31 on the file of the I Munsiff
Bangalore. (Nrimbajetty vs. Rampa
jetty and District Magistrate).

With reference to your letter no. P 4250/Law
Gl. 30.7 of the 16th instant I have the honour
to inform you that the Plaintiff did not file
the reply on 15-1-1931 and the case is posted to

3711/P/30 Bangalore
28/1/31
26th

The public prosecutor,
Bangalore

The Legal Remembrancer and
Secretary to Government,
Law Department,
Bangalore

Sir,

Re: OS. 196/30-31 on the file of the I Munsiff, Bangalore Nimba getty vs. Ranga getty and District Magistrate, Bangalore

3542/30
P/
gns B
24/1

In continuation of this office no. 299/3031 of the 18th instant, I have the honour to send herewith the copy of the reply filed by the plaintiff in the above case on 24/1/31 The case is posted to 3/2/1931 for issues.

Defendants

1. Ranga gelly
2. District Magistrate, Bangalore

The plaintiff begs to file his reply to the 2nd defendant's written statement as follows:-

1. The plaintiff reaffirms all the allegations of the plaint.

2. The suit is maintainable against the second defendant

3. The allegations of para 2 and 3 of the written statement are false. The plaintiff is not aware of any petition filed by Subbagelly. The institution was well managed by the plaintiff since 1888. No enquiry was made by the District Magistrate as alleged. The order passed by him was an ex-parte one. The District Magistrate had no power to pass such an order and it is illegal and does not bind the plaintiff. The first defendant was not better qualified for the management even if true, the District Magistrate could not over look the hereditary rights of the plaintiff which had been decided by this very

Court in ~~[illegible]~~ OS 588 of 1988. in his favour. The said judgment and decree are binding on all persons in the world, since it has not been set aside till today. The plaintiff is prepared to prove his title and right to the management of the garadi.

4. The pleading in para 4 of the written statement is self contradicting. It is through the second defendant, that plaintiff lost possession and therefore he was bound to put the plaintiff in possession once again after the cancellation of his order by Government. The plaintiff was repeatedly pressurising the second defendant and his subordinates after the Government order, to put him in possession of garday which he was bound to do to maintain status quo, as per law but failed to do. The plaintiff does not admit that the matter had to be decided by a civil court between him and the first defendant, before he was dispossessed by the second defendant. The second

the Plaintiff had to restore it and if need be, had to force the 1st defendant to a civil suit and not the plaintiff there is no equity or law in favour of this defendant

5. The plea of the 2nd defendant in para 4 of his written statement is not tenable. Inspite of the order of the Government he refused to put the plaintiff in possession, even though he could have done it.

6. Both the defendants have colluded together to defraud the plaintiff

7. The allegation of para 8 of the written statement is false no enquiry was made by the second defendant He was fully aware of the rights of the plaintiff. and he had no jurisdiction over this matter Inspite of all this and malafide the 2nd defendant dispossessed the plaintiff. Hence he is liable to restore possession to plaintiff. The second defendant therefore cannot plead protection under any law

reply and not admitted by the plaintiff are false and do not bind him.

Wherefore the plaintiff prays for a decree as prayed for

Verification in the original

To

The PPr. Bangalore

Sir,

Adverting to your letter no 413/30-31 dated 19.3.31 re OS. 196/30-31 on the file of the 1st Munsiff Bangalore (Nimbajetty vs Rangajetty & others) I am directed to enquire to which date the Case is posted for ~~the~~ framing of issues.

I have the

TSD. 25/3 BOP 25/3 for L. Rn.

The Public Prosecutor,
B a n g a l o r e.

Adverting to your letter No. 413/30-31 dated 19th March 1931 regarding O.S. 196/30-31 on the file of the First Munsiff Bangalore (Nimbajetty Vs Rangajetty and others) I am directed to enquire to which date the case is posted for framing of issues.

I have the honor to be,
Sir,
Your most obedient servant,

For Legal Remembrancer and
Secretary to Govt.Law Deptt.

No 435/30-31
encl (1)

4658/30
Bangalore 35
28. 3. 1931
30th

Law 64-30

From

The Public Prosecutor,
Bangalore

To

The Legal Remembrancer
and Secretary to Government
Law Department
Bangalore

Re: OS 196/30-31 on the file of the
I Munsiff Bangalore Nimba getty
Ranga getty + District Magistrate
Bangalore

In continuation of this office no. 413/30-31 of the 19th instant, and in reply to your letter no. P 6144 of 27.3.31 I have the honour to send herewith the copies of the issues framed by court in the above case for your reference. The case is posted to 9-9-1931 for evidence. I request you to kindly acknowledge the receipt of the issue copy sent herewith.

In the Court of the First Munsiff Bangalore

OS. No. 196/30-31

Plaintiff

Nimba getti

defendants

1. Ranga getty
2. District Magistrate Bangalore

Issues framed by court

1. Is plaintiff entitled to the ~~management~~ management of the Garadi by reason of the decree in OS 588 of 1888

.) If so had the District Magistrate sufficient ground to hand over the management to the + defendant

) Is the first defendant entitled to the ~~management~~ management 5 the Garadi? And is he authorised by the ajarity of the community to manage it?

Is the suit as brought not maintainable under ection 92 of civil procedure code?

To

The PPr. Bangalore

Sir,

With reference to your letter no. 435/30-31 dated 30. March 1931 forwarding a copy of the issue framed in O.S. 196/30-31 on the file of the I Munsiff. Bangalore (Nombajelly vs Ranga jelly + Dist. Magte B'lore intimating that the case is posted for I am directed to invite reference to this office letter No. P. 3819 dated 2nd Jan 1931 where in specific instructions were ~~have~~ been given to have

38

the preliminary points of law arising in the Case, argued before ~~[illegible]~~ the Case posted for evidence, ~~and~~ ~~[illegible]~~ to enquire why no action ~~has been~~ was taken by you accordingly. ~~to the instructions given~~

I am to ~~suggest~~ request ~~that~~ you ~~now at least~~ to file an application non praying the Court to post the Case for arguments before the next date of HG

Action taken in the matter may ~~kindly~~ be intimated without delay ~~in due Course~~

I have ete

TSD 6/4

for L. R.

6/4

The Secretary to the Government of His Highness the Maharaja of Mysore,
Law Department.

To

The Public Prosecutor,

Bangalore Division.

Sir,

With reference to your letter No.435/30-31 dated 30th March 1931 forwarding a copy of the issues framed in O.S.196/30-31 on the file of the First Munsiff,Bangalore (Nimbajetty Vs. Rangajetty and District Magistrate,Bangalore) and intimating that the case is posted for evidence to 9th September 1931, I am directed to invite reference to this office letter No.P.3819 dated 2nd January 1931 where in specific instructions were given to have the preliminary points of law arising in the case, argued before getting the case posted for evidence and to enquire why no action was taken by you accordingly.

I am to request you to file an application now praying the court to post the case for arguments before the next date of hearing.

Action taken in the matter may be intimated without delay.

I have the honour to be,

Sir,

Your most obedient servant,

From

B. N. VIJAYA, DEVA, M. A.,
BARRISTER-AT-LAW,
PUBLIC PROSECUTOR & GOVT. PLEADER,
BANGALORE DVN.

To

The Legal Remembrancer
and Secretary to Government
Law Department,
Bangalore

Dated 28.5.31

Despatched 28.5.31

Received

General No. 509/30-31

No.

Enclosure No.

OS. 196/3031 on the file
of the I Munsiff, Bangalore
Nimbagetty to. Ranga
getty and District Magistrate
Bangalore

With reference to your letter
no P. 76/3/Law of the 26th instant
I have the honour to state
that an application has been
filed in court to advance the
above case for arguments on the
point whether plaintiff has
any cause of action against
second defendant. no orders
have been passed on the said
application and the same will be
intimated to you in due course.

I have the honour to be,
Sir,
Your most obedient Servant
B. N. V. Deva
Public Prosecutor
Bangalore

From

The public prosecutor,
Bangalore

To The Legal Remembrancer
and Secretary to Government,
Law Department,
Bangalore

Sir, Re: OS 196/30-31 on the file of the I Munsiff. Bangalore. Nimbagetty vs. Rangagetty + District Magistrate, Bangalore.

N' 15/6/31

In continuation of this office no. 508/30-31 dated 28.5.31 I have the honour to inform you that orders have been passed on the application filed by me to advance the case for arguments. It has been numbered as Serial no 1 and is posted to 2.7.1931 for notice to plaintiff and the first defendant.

I have the honour to be,
Sir,
Your most obedient Servant.

Sir,

With reference to your letter no 520/30-31 dated 13th June 1931 re O.S. 196/30-31 on the file of the I. Munsiff, B'lore (Nimbajetty vs Rangajetty & D.M. B'lore) I am directed to state that the application to advance ~~praying the Court to~~ ~~post~~ the Case for arguments on the preliminary points involved, of Law ought to have been filed after giving due notice to the Counsel of the ptg as well as that of the 1st Deft. This would have ~~been~~ avoided an adjournment ~~the Case being unnecessarily dragged on~~ of the case for the purpose of notice —

I have etc

for Sec^y, L.D.

ISD 19/6.

MM

The Public Prosecutor,
Bangalore.

With reference to your letter No. 520/30-31 dated 13th June 1931 re.O.S.196/30-31 on the file of the First Munsiff Bangalore (Nimba Jetty Vs Ranga Jetty and District Magistrate, Bangalore) I am directed to state that the application to advance the case for arguments on the preliminary points of Law involved, ought to have been filed after giving due notice to the counsel of the plaintiff as well as that of the 1st defendant. This would have avoided an ad adjournment of the case for the purpose of notice.

I have the honor to be,
Sir,
Your most obedient servan

Section

File No.

Serial No.

Diary No. of letter replied to.....

No. P.6640

To The PPr. B'lore

Sir,

General and Revenue Secretariat

( )

the *193*

Date of issue 30.7.31

Signed by M V Rao

With reference to the Correspondence ending with this office letter no. P. 7806 dated 20th June 1931 re: O.S. 196/30-31 on the file of the 1st Munsiff Bangalore, (Nimbajelly vs Rangajelly v D.M. B'lore), I am directed to enquire as to what happened to the Case on 2-7-31 the date to which the Case was posted for notice to the pff and the I defendant. date to and the purpose for which the Case stands adjourned may kindly be intimated for information of Govt.

List of enclosures.....

Copied by.....

Examined by.....

The Chief Secretary to the Government of
Mysore Bangalore

Sir,

OS. No. 196/30-31 on the file of the I Munsiff
Bangalore. (Nimbajetty vs. District
Magistrate, Bangalore)

With reference to your letter No. P. 640
30th July 1931 I ha[illegible] [illegible] to inform you that
the above case is posted to 10th instant for argument
regarding the preliminary point of law.

In the court of the First Munsiff Bangalore

O.S. No. 196 | 30-31

Serial No. 1.

Plaintiff

Nimbagetty

Defendants

1. Ranga getty.
2. District Magistrate, Bangalore

Second defendants' petition under order 14. Rule 2 of the civil procedure code.

In this case it is necessary to have the preliminary point of law argued and decided before evidence is heard in the case on issues of facts.

The second defendant therefore prays that the case may be posted for argument before the next date of hearing on the point whether plaintiff has cause of action against the second defendant and is entitled to costs against him, since the point is one of law under the circumstances alleged in the plaint and in second defendants' defence.

The plaintiff begs to file his objections to Serial no 1. filed by the 2nd defendant as follows:

1. The preliminary point of law as per para 2 of the petition as to whether the plaintiff has cause of action against the 2nd defendant and is therefore entitled to costs from him is a matter which depends on evidence that has to be recorded in the suit

2. The pleadings amply bear out that the 2nd defendant who dispossessed the plaintiff had to restore possession but wantonly failed to do so. It is a matter of fact and evidence has to be let in to prove the fact

3. Unless evidence is recorded in detail the whole truth cannot be found out.

4. Wherefore in the interest of justice. it is necessary to record evidence on all matters

and then decide the issues framed in the suit.

Wherefore, the plaintiff prays that this petition may be dismissed.

usual verification

To

The General Secretary to the Government of Mysore Bangalore

Dated 28. 8. 31

Despatched 28. 8. 31

Received

General No. 91/31-32
No.

28/8

Enclosure No.

Sir,

Re: OS 196/30-31. I Munsi Bangalore (Nimbagetty) District Magistrate, Bangalore

with reference to your letter No P 1138/Law of the 21st instant I have the honour to state that the arguments were heard on 20-8-31 and it is posted 1-9-1931 for orders.

The public prosecutor
Bangalore

To

The General Secretary to the Government
of Mysore, Bangalore

GENERAL SECRETARY.
14 SEP. 1931
No. 2012

Sir,

O.S. No. 196/30-31 on the file of the
I Asst Munsiff, Bangalore, Nimbayell
V. Ranga Setty & District Magistrate
Bangalore

I have the honour to inform you that
Serial No. 1. the application filed by me
praying that the second defendant is not a
necessary party to the suit was argued.
The court has passed orders rejecting the
application. The case is posted to 1.10.31
for the arguments of the 1st defendant.

I have the honour to be,
Sir,
Your most obedient Servant.

B. N. Dr Deva
Public prosecutor,
Bangalore

Section

File No.

Serial No.

Diary No. of letter replied to .....

No. P1727

To The PPr. B'lore.

Sir,

With reference to your letter no 114/31-32 dated 12th Sept 1931 re: O.S. 196/30-31 on the file of the I Munsiff. B'lore (Nimbajetty vs Ranganjetty & Dt. Magt I am directed to request the a copy of the order passed by the Court rejecting the application, may kindly be obtained and sent for information of Govt. at an early date

General and Revenue Secretariat

( )

the 19:

Date of issue 23 9 31

Signed by Mr N-R-J

From

The *General Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Public Prosecutor,

Bangalore Division.

Sir,

With reference to your letter No.114/31-32 dated 12th September 1931, regarding O.S.196/30-31 on the File of the --- First Munsiff, Bangalore, (Nimbajetty -VS- Rangajetty and District Magistrate) I am directed to request that a copy of the order passed by the Court rejecting the application, may kindly be obtained and sent for information of Government at an early date. I am also to enquire whether the question of the maintainability of the suit against the District Magistrate in the name of his Office was raised and argued. I am to invite in this connection your reference to the case reported in 51 Bom. 749 and especially to the observations at 755 as to how a public Officer is to be sued.

I have the honour to be,

S i r,

Your most obedient servant,

For General Secretary to Government.

To

The General Secretary to the Government of Mysore, Bangalore

Dated 10-10-31

Despatched 10-10-31

Received

General No. 158/31-32

No.

Enclosure No.

GENERAL SECRETARY. 10 OCT. 1931

No.

With reference to your letter No. P 1727 of the 23rd September 1931 I have the honour to inform you that OS 196/30-31 on the file of the I Munsiff Bangalore (Nimbagetty. vs District Magistrate) is posted to 2.11.31. for the arguments of the second defendant. I have applied for a copy of the order and the same will be sent to you after the receipt of the same.

Office of the Public Prosecutor,
Bangalore Division.
Dated, Bangalore 3rd November 1931.

The Public Prosecutor,
Bangalore Division, BANGALORE.

The Secretary to the Government
of H. H. The Maharaja of Mysore,
General Department, BANGALORE.

Sir,

Re: O. S. No.196/30-31 on the file of
the First Munsiff, Bangalore.
(Nimba Jetty, Vs. ~~Deputy Commis-~~ District Magistrate, Bangalore and another)

I have the honor to inform you that the above case which was posted to 2-11-1931 for arguments of the 2nd Defendant has been adjourned to 24-11-1931.

I have the honor to be,
Sir,
Your most obedient servant,

Public Prosecutor.

55 1866 / 931

Office of the Public Prosecutor,
Bangalore Division.
Dated, Bangalore 4th Novr. 1931.

From

The Public Prosecutor,
Bangalore Division, BANGALORE.

To

The Secretary to the Government
of H. H. The Maharaja of Mysore,
General Department, BANGALORE.

GENERAL SECRETARY
4 NOV. 1931
No. 245

Sir,

Re: O. S. No.196/30-31 on the file of
the First Munsiff, Bangalore.
(Nimba Jetty Vs. Ranga Jetty and
the District Magistrate, Bangalore).

I have the honor to forward herewith, for the information of Government, the certified copy of the order passed in the above case as Serial No.1.

I have the honor to be,
Sir,
Your most obedient servant,

Public Prosecutor.

TWO ANNAS
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GOVT OF MYSORE

In the Court of the Munsiff at Bangalore

Original Suit Number 196 of 1930-31

Dated this the 3rd day of September 1931.

Present:- A. Sundararaja Rao Esquire B.A. B.L. Munsiff

Plaintiff
Siba Getty.

Vrs.

Defendants
1. Ranga Getty.
2 District Magistrate Bangalore

Order regarding application I.

This is an application under Order 14, Rule 2 of Civil Proceedure Code, filed by 2nd defendant praying that issues 4 and 5 may be disposed of by arguments before any evidence is recorded. Plaintiff opposes this application. I have heard plaintiff and 2nd defendant on this application. It is a point to be decided by evidence

TWO ANNAS

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MYSORE

5

whether Section 92 of Civil Procedure code applies, since plaintiff does not say that this is a suit under that Section. 5th issue depends upon the decision on the 2nd issue and evidence, and 2nd issue has to be gone into as it is a question of fact. Issues 4 and 5 cannot, therefore, be decided without recording evidence. The application is rejected. Bring up 9-4-31

9. Pronounced in Open Court

(Sd) A. Sundararaja Rao. I Munsiff

Dated 2-9-1931

True Copy

Head Munshi

Sir

with reference to your letter no 287 dated 6th November 1931 enclosing a certi copy of the order passed on Serial no in os on the file of the Ist Munsiff Banga (Nambagetty vs Rangagetty and the District Magistrate, Bangalore) I am directed to invite reference to this Office letter no p 3819 dated 2/1/31 an no p. 1749 dated 23rd Sept. 1931 respect wherein it was suggested to have the mara

1) whether the suit as framed against the 2nd defendant is maintainable

2) whether the District Magistrate as such

noted preliminary que decided before getti the case posted for evid Mr B.N.V. Deva sees have moved the Court hear preliminary arguments on ~~the~~ iss

relating to the maintainability of the suit under ~~of~~ Section 92 C.P.C. as is apparent from the copy of the order sent by you

I am therefore to request that necessary action may now be taken by to rectify the mistake and report the same for the information of Govt early ~~days~~ date

No. 332/31-32 Office of the Public Prosecutor
Bangalore Division.
Dated, Bangalore 17th November 1931.

From

The Public Prosecutor,
Bangalore Division, BANGALORE.

GENERAL SECRETARY
17 NOV. 1931
No. 1015

To

The Secretary to the Government
of H. H. The Maharaja of Mysore,
General Department, BANGALORE.

Sir,

Re: O. S. No.196/30-31 on the file of
the First Munsiff, Bangalore.
(Nimba Jetty Vs. Ranga Jetty & the
District Magistrate, Bangalore).

18/11

I have the honor to acknowledge the receipt of your letter No.P.2782/Law. of the 14th instant and to state that the above case is posted to 24th instant and on that day I will have the Court moved to hear arguments on the points indicated in your said letter.

I have the honor to be,
Sir,
Your most obedient servant,

S Doraswamy Ay
Public Prosecutor.

Office of the Public Prosecutor,
Bangalore Division,
Dated, Bangalore 29th November 1931.
30th

From

The Public Prosecutor,
Bangalore Division, BANGALORE.

GENERAL SECRETARY
30 NOV. 1931
No. 1605

To

The Secretary to the Government
of H. H. The Maharaja of Mysore,
General Department, BANGALORE.

Sir,

Re: O. S. No.196 of 30-31 on the file of the First Munsiff, Bangalore. (Nimba Jetty, Vs. District Magistrate, Bangalore).

In continuation of this office No.332/31-32 dated the 17th instant, I have the honor to state that I filed an application in Court on the points suggested in your letter No.P.2782/Law. dated the 14th instant and the Plaintiff has filed his objections, and the case is posted to the 10th December 1931 for arguments.

I have the honor to be,
Sir,
Your most obedient servant,

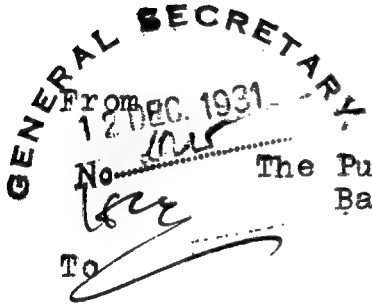
Public Prosecutor.

Subd for perusal

60 2659 p831

Office of the Public Prosecutor,
Bangalore Division.

Dated Bangalore 11th December 1931.



GENERAL SECRETARY
12 DEC. 1931
No. 1015

From The Public Prosecutor,
Bangalore Division, BANGALORE.

To

The Secretary to the Government
of H. H. The Maharaja of Mysore,
General Department, BANGALORE.

Re: O. S. No.196/30-31 on the file of the First Munsiff, Bangalore. (Ninba Jetty, Vs. District Magte. Bangalore and another).

I have the honor to state that the above case which was posted to the 10th instant for arguments on Serial No.2 has been adjourned to the 13th January 1932 for want of time.

I have the honor to be,
Sir,
Your most obedient servant,

[signature]
Public Prosecutor.

Subd for perusal
16/12

These letters may be noted on the noting sheet
16/12

Subd noting on the noting sheet
17/12

61 3273/31

Office of the Public Prosecutor,
Bangalore Division.

Bangalore 19th January 1932.
22nd

From

The Public Prosecutor,
Bangalore Division, BANGALORE.

To

The Chief Secretary to the Govt.
of H. H. The Maharaja of Mysore,
BANGALORE.

23 JAN

Sir,

Re: O. S. No.196 of 30-31 on the file of the First Munsiff, Bangalore. (Nimba Jetty Vs. Ranga Jetty & The District Magistrate, Bangalore District).

I have the honor to state that I argued the above case on the 13th instant and the same is posted to the 25th instant for orders.

I have the honor to be,
Sir,
Your most obedient servant,

Public Prosecutor.

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the

Date of issue 16/3/32

Signed by ..... [signature]

No. P 5529

To The PPr. B'lore.

Subject:- O.S. 196/30-31 on the file of the I Munsiff B'lore (Mumbajelly vs Rangajelly & the Dist. Magte. B'lore)

Sir,

With reference your letter no 482/31-32 dated 27th Jan 1932 intimating that the above case was posted to 25th Jan 1932 for orders. I am directed to enquire whether ~~any order was~~ orders were passed in the case on the said date, & if so a copy of it may kindly be sent for information of Govt early

GENERAL SECRETARY 22 MAR. 1932 No. Law

Office of the Public Prosecutor.
Bangalore Division

From

The Public Prosecutor,
Bangalore Division, BANGALORE.

To

The Secretary to the Government
of H. H. The Maharaja of Mysore,
General Department, BANGALORE.

Sir,

Re: O. S. No.196/30-31 on the file of the ~~Dist. Krmaja~~, Bangalore Dn.
(Nimba Jetty Vs. Ranga Jetty and The Dist. Magistrate, Bangalore).

With reference to your letter No. P.5527/Law. of the 16th instant, I have the honor to state that orders were passed in the above case on the 14th inst. holding that the District Magistrate is not a necessary party to the suit. The copy of the order has been applied for and the same will be forwarded after it is received in this office.

I have the honor to be,
Sir,
Your most obedient servant,

Public Prosecutor.

64 4446 / 31

Office of the Public Prosecutor,
Bangalore Division.

No. 754/31-32
encl 8 sheets

Bangalore 26th March 1932.
28th

From

The Public Prosecutor,
Bangalore Division, BANGALORE.

To

The Secretary to the Government
of H. H. The Maharaja of Mysore,
General Department, BANGALORE.

Sir,

Re: O. S. No.196/30-31 on the file of the First Munsiff, Bangalore. (Nimba Jetty VS. Ranga Jetty and The District Bangistrate, Bangalore).

In continuation of this office letter No.723/31-32 dated the 19th March 1932 I have the honor to forward herewith the certified copy of the order passed in the above case, for the information of Government.

I have the honor to be,
Sir,
Your most obedient servant,

Public Prosecutor.

KHN

TWO ANNAS

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MYSORE

65

Cn. 2587
Mr G.S. Dorasamy
Iyer
0.10-8
0-2.8
0-13-4

In the Court of the First Munsiff at Bangalore
Original Suit No 196 of 1930 1931
Dated this 14th day of March, 1932

Present:- A. Sundararaja Rao Esquire,
B.A., B.L., First Munsiff, Bangalore.

Plaintiff Nimba Jetty

Defendants: 1. Ranga Jetty 2.
District Magistrate Bangalore.

Order regarding application S. Number IV.

This is an application under order 14 Rule 5 of Civil procedure code, filed by the 2nd defendant praying that two additional issues may be framed and that these issues be disposed of before recording further evidence these two additional issues are (1) whether the suit as framed against the

TWO ANNAS

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GOVT OF MYSORE

procedure code, in the case of public charities, if there is any breach of express or constructive trust created for public purposes of a charitable or a religious nature or where the direction of the Court is deemed necessary for the better administration of any such trust any two or more persons with the consent in writing of the advocate General may institute a suit in the principal civil Court of original Jurisdiction

It has got to be ascertained here whether the suit instituted is a trust created for public purposes of a religious

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to this case. According to second defendant first defendant was in possession till he was actually dispossessed by them and till possession was given to 2nd defendant

I therefore, find on the 4th issue, that the suit as brought is maintainable and the provision of 92 of Civil procedure Code does not apply to this case

The next point for consideration is whether the District Magistrate as such can be sued. Second defendant is sued by virtue of his office. The person that holds the office of the District Magistrate has not been added as a party. Second defendant

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states that the suit against the office is not maintainable. In the Sheriff of Bombay versus Hakimaji Mataji and Company 51, Bombay 749, it was held that the Sheriff of Bombay is not a corporation sole within the ordinary meaning of that expression and cannot be sued as such and that he could be sued by his official name as if he were a corporation on the analogy of that decision. Second defendant contends that the suit as against the District Magistrate is not maintainable. I think that contention is valid. It is laid down in

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that case that Section 79 to 82 of Civil procedure code, & order 27 of Civil procedure code, do not contemplate the suit being brought against the office as distinguished from the individual for the time being, holding the office

Following the decision of the Bombay High Court, I have to hold that the suit as brought against the office of the district magistrate is not maintainable the person who holds the position of the district magistrate, as such, should have been impleaded as a party to this suit.